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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,514	06/08/2000	Allan Herrod	4842.0068-01	1287

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EXAMINER

FRANKLIN, JAMARA ALZAIDA

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/589,514

Applicant(s)

HERROD ET AL.

Examiner

Jamara A. Franklin

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 58-75 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 58-75 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) Paper No(s). <u>10</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 60, 65, and 66 are objected to because of the following informalities:

in claim 60, line 1, substitute "the" with --a--,

in claim 65, line 2, substitute both occurrences of "the" with --a--,

in claim 65, lines 2-3, substitute "its immediate environment" with --an immediate environment of said terminal--,

in claim 66, line 1, substitute "the" with --a--,

in claim 74, line 1, substitute the second occurrence of "the" with --a--,

in claim 74, line 2, substitute "the" with --a--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 71 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 2876

4. Regarding claim 71, the word "type" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "type"), thereby rendering the scope of the claim(s) unascertainable.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 58-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirakawa et al. (US 5,664,126) (hereinafter referred to as 'Hirakawa') in view of Walsh et al. (US 6,144,848) (hereinafter referred to as 'Walsh').

Hirakawa teaches a message creating unit 510 which creates a message to be transmitted from a calling party to a called party. A sender 530, which is created at the message creating unit 510, transmits the message added with a degree of urgency at the calling party degree of urgency judgment unit 520. To transmit messages of great urgency, highly reliable, high-speed channels are selected at the sacrifice of cost, whereas to transmit messages of low urgency, low-cost channels are selected.

Hirakawa lacks the teaching of the message creating unit being mobile, a determination of the location of the message creating unit, and the communication channel being wireless.

Walsh teaches a hand-held user device which wirelessly supplies a host computer server with the location of the user, either from a memory of using a GPS locator (see table 8-1).

Art Unit: 2876

One of ordinary skill in the art would have readily recognized that a mobile message creating unit would have been advantageous for providing the message creating unit user with the ability to create messages in a variety of different locales, thereby making the act of message creating more flexible to the user's liking. Furthermore, one of ordinary skill in the art would have readily recognized that determining the geographical location of the message creating unit would have been advantageous for knowing the general whereabouts of a unit and user for purposes of maintenance or keeping inventory. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Hirakawa with the aforementioned teachings of Walsh.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Pieterse (US 6,088,127) teaches a device and method for forwarding electronic messages.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is 703-305-0128. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703)308-7722 for After Final communications.


Art Unit: 2876

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Janiara A. Franklin
Examiner
Art Unit 2876

JAF
March 31, 2003



MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800